

REMARKS

Rejection Under 35 U.S.C. § 103(a)

In the non-final Office Action issued on April 27, 2009, the examiner rejected all claims under 35 U.S.C. § 103(a) as unpatentable over US 6,489,332 or US 5,786,360 or WO 2003103675A2. While the applicants traverse this rejection, to advance prosecution, they have substantially limited the present claims to relate to a single compound, *i.e.* 3-[2-(3-Aminophenyl)ethyl]-8-benzyl-7-[2-ethyl(2-hydroxyethyl)-amino]ethyl-1-propylxanthine (see new Claim 34). Note that while Claim 34 is new, the claimed compound is generically covered in cancelled Claim 1 and is the fourteenth compound listed in cancelled Claim 33. The applicants acknowledge that the compound of the present Claim 34 is a position isomer, *i.e.*, the *meta* analog, of compound (L-97-1) shown at center page 4 of the Office Action, generally in Claim 1 of US 5,786,360, and specifically in Claim 1 of US 6,489,332. However, they have reason to believe, based on structure - activity studies that the compound of Claim 34 has unexpectedly and substantially greater efficacy as an A1 adenosine receptor antagonist than the compounds of the cited art such as L-97-1.

Rejection Under 35 U.S.C. § 112

Claims 7 – 28, 30, and 32 were rejected for being indefinite and all claims were rejected as not providing enablement for solvates/hydrates. Again, applicants traverse the rejection, but to advance prosecution, they have cancelled the rejected claims and added two new claims.

Continuation of Prosecution

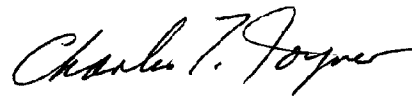
As noted above, the applicants have good reason to believe that the compound of new Claim 34 has unexpectedly high activity. In good faith, they intended to conduct biological tests and submit the data from those tests in the form of a rule 132 declaration of an expert in this art as part of their response to the present Office Action. However, the applicants have experienced a series of unavoidable delays in preparing

sufficient quantities of the compound of Claim 34 for testing, and consequently, do not have the test data to present at this time. In order to meet the upcoming statutory deadline (October 27, 2009), they are submitting this amendment with the intent to present convincing arguments for patentability supported by one or more 132 declarations in their response to the next Office Action. If required, the applicants will file a CIP to focus on the patentability of the compound of Claim 34.

Future Correspondence

Please direct all future correspondence related to this application to the undersigned representative of the applicants.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charles T. Joyner". The signature is fluid and cursive, with the first name "Charles" and last name "Joyner" clearly distinguishable.

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